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Sent Via E-Mail

May 28, 2010

Mary Rupp, Secretary of the Board
National Credit Union Administration
1775 Duke Street
Alexandria, Virginia 22314-3428

Re: Notice of Proposed Rulemaking

Dear Ms. Rupp:

The following comments are submitted in respect to the Notice of Proposed Rulemaking regarding 12 CFR Parts 701, 708a, and 708b Fiduciary Duties at Federal Credit Unions; Mergers and Conversions of Insured Credit Unions.

Comment 1. Proposed Section 701.4 (a), should be revised to clarify that while credit union directors have ultimate responsibility for the management of the credit union, that does not include in most cases involvement in it's day-to-day operations. Rather their ultimate duty is to provide strategic guidance and ensure that the credit union's executive management properly manages the affairs of the credit union on a day to day basis. Boards should not generally be involved in the day to day operations of a credit union.

Comment 2. Proposed Section 701.4 (b)(2) provides that the board of directors shall administer the affairs of the federal credit union without discrimination in favor of or against any particular member. This section should be clarified in order to take into account that a board of directors has a duty to act in the best interest of the majority of the credit union's members. This may, in some instances, necessarily involve actions which are contrary to particular members or groups of members.

Comment 3. Proposed Section 701.4 (b)(4) should be amended to provide that a credit union's board of directors shall "direct management's operation of the federal credit union in conformity with the requirements set forth in the federal credit union act..." As



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stated above, this will clarify that boards of directors should generally not involve themselves with the day to day operations of a credit union.

Comment 4. Proposed Section 701.4(c) should be deleted. As a general rule, with the exception of the supervisory committee, board committees exist and serve at the pleasure of the board and do not (and should not) have independent authority to retain staff and/or outside consultants or counsel unless so directed the board of directors. This language as proposed could quite easily lead to needless expense and controversy within boards of federal credit unions.

Comment 5. A statement should be included in the new regulation to the effect that **"To the extent not specifically addressed in or inconsistent with these regulations, courts should look to the laws of the state where the credit union's principal offices are located in resolving issues of corporate governance for federally chartered credit unions."** There are many issues, duties and situations which are not addressed in the existing or proposed regulations and there is no federal body of common law to which courts can look for guidance in resolving these issues. Such a provision would direct courts charged with resolving issues which are not specifically addressed in the regulations to look to state statutes and common law which, in many if not all instances, is fairly well developed. Presently we are frequently left with making a more circuitous argument that the absence of any direction, federal statute or body of federal common law requires a look to state law by default or analogy. The inclusion of the suggested provision would be very helpful in these instances.

Thank you for the opportunity to provide comments in regard to this matter. With kindest regards I remain

Very truly yours,

Christopher J. Pippett

CJP:ajd